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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10 040,833	01 08 2002	Pieter Van Dine	A34154	2661

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BAKER & BOTTS  
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NEW YORK, NY 10112

EXAMINER
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COMAS, YAHVEH

ART UNIT	PAPER NUMBER
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2834

DATE MAILED: 07 02 2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.	Applicant(s)
10/040,833	VAN DINE ET AL.
Examiner	Art Unit
Yahveh Comas	2834

## Office Action Summary

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on \_\_\_\_\_.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 1-9 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) 1-9 is/are rejected.  
 7) Claim(s) \_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 08 January 2002 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
     If approved, corrected drawings are required in reply to this Office action.  
 12) The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.  
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.  
 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. 
2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>603</u> .	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "reference no. 20". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "60" has been used to designate both shaft and magnets. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: "reference no. 72, 74 and 98". A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 1 and 6 – 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. U.S. Patent No. 6,069,421 in view of Yamamoto U.S. Patent No. 4,496,866.

Smith disclose a electric motor comprising a rotor (22) supported for rotation within the stator (12), a preformed cylindrical composite can member removably affixed to one of the stator and rotor but doesn't disclose a sealing ring for sealing the cylindrical can member to the member to which it is affixed. However, disclose an O-ring sealing member (152) for the purpose of seal the interface between the can (3) and the resin-molded member (4). Also disclose that to provide the necessary strength as well as resistance to corrosive materials while reducing the weight of the components, the material used to make the inner and outer composite canning layers of the rotor and stator is preferably a high strength resin containing high modulus fibers, such as fiberglass, graphite, carbon, boron, quartz or aramid fiber material.

Referring to claims 8, no patentable weight has been given to the method of manufacturing limitations (i. e. dry lay-up resin transfer molding, wet and pre-impregnated, and filament winding techniques) since "even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985)

It would have been obvious to one having skill in the art at the time the invention was made to modify Smith's invention and provide a O-ring scaling member for purpose of seal the interface between the can member and the member to which it is affixed.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. U.S. Patent No. 6,069,421 in view of Yamamoto U.S. Patent No. 4,496,866, and in further view of Lipe et al. U.S. Patent 2,958,292.

Smith, as modify above, disclose the claimed invention except for the can member is removably affixed by screws. However, Lipe disclose a canned motor removably affixed by screws (57) for the purpose fix the housing rear cover (26), the can (10) and the bearing housing (36) and use the motor as a pump unit.

It would have been obvious to one having skill in the art at the time the invention was made to modify Smith's invention and provide a composite can member removably affixed by screw for the purpose of use the motor as a pump.

7. Claim 1, and 3-5 rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. U.S. Patent No. 6,069,421 in view of Yamamoto U.S. Patent No. 4,496,866, and in further view of Junpei et al. U.S. Patent No. 3,577,024.

Smith disclose the claimed invention except for wherein the composite can member has a surface facing a space between the rotor and the stator in which ridges are formed to control flow of liquid through the space. However, Junpei rotor surface with ridges formed for the purpose of create components of force that act to prevent the cooling liquid from entering into the air gap between the stator and the rotor.

It would have been obvious to one having skill in the art at the time the invention was made to modify Smith's invention and provide a ridge surface between the stator and rotor for the purpose create components of force that act to prevent the cooling liquid from entering into the air gap between the stator and the rotor.

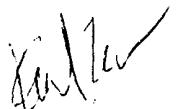
*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yahveh Comas whose telephone number is (703) 305-3419. The examiner can normally be reached on M - F 8:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on (703) 308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3432 for regular communications and (703) 308-0956 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

YC  
June 30, 2003



KARL TAMAI  
PRIMARY EXAMINER